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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,793	06/29/2001	Ioan Sauciuc	884.496US1	1236

21186 7590 09/23/2003

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EXAMINER

PATEL, NIHIR B

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,793

Applicant(s)

SAUCIUC ET AL.

Examiner

Nihir Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 27th, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-8 and 12-14 is/are allowed.
- 6) ☒ Claim(s) 9,10,15,17,21 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments in reference to claims 1, 3-8, and 12-14, filed June 27th, 2003 have been fully considered and are persuasive.
2. In response to applicant's argument in reference to claims 9, 15, 21, 24, and 28, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a heater constructed and arranged to supply thermal energy to the liquid coolant in combination with a pump) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). However if the applicant amended claims 9, 15, 21, 24 and 28 to include a heater in combination with a pump, the application could be considered allowable upon a further search by the examiner.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 10, 15, 17, and 24-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Phillips et al. US Patent No. 5,587,880.

Phillips discloses the claimed invention except for a control connected to the heater to maintain the coolant at an optimum temperature for evaporation by the evaporator. It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to include control connected to the heater to maintain the coolant at an optimum temperature for evaporation by the evaporator, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Claim Rejections - 35 USC § 103

1. Claims 21, 23 and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Phillips et al. Phillips et al. discloses applicant's invention as claimed with the exception of a specific recitation of the amount of liquid within the heat pipe. The amount of liquid charged with a heat pipe system is completely dependent on the heat load of the heat source that the heat pipe will be used to cool. It would be obvious to fill the heat pipe up to 90 with liquid refrigerant or any other amount depending on the load to be cooled. Also to put the elements of the heat pipe cooling system in the form of a kit would have been an obvious arrangement since lacking any other critical aspects of the putting the separately claimed elements in a kit has been long settled to be an obvious configuration.

Allowable Subject Matter

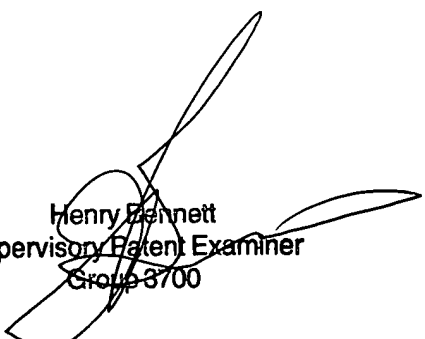
1. Claims 1, 3-8, and 12-14 allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (703) 306-3463. The examiner can normally be reached on Monday-Friday from 7:30am to 4:30pm. If attempts to reach the examiner by telephone are unsuccessful the examiner's supervisor Henry Bennett can be reached at (703) 308-0101.

NP
September 22, 2003



Henry Bennett
Supervisory Patent Examiner
Group 3700